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Return Date: 8/2/21 at 1:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

Chapter 11
Case No. 12-23616-rdd
Post-Confirmation

MOSDOS CHOFETZ CHAIM INC.,

Debtor.

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CONGREGANTS OF MOSDOS CHOFETZ
INC. A/K/A KIRYAS RADIN,

Adv. Pro No. 21-07023-rdd

Plaintiff

-against-

MOSDOS CHOFETZ CHAIM INC., CHOFETZ
CHAIM INC., et. al., TBG RADIN LLC, CHEM OLAM,
LLC, CONGREGATION RADIN DEVELOPMENT
INC., ARYEH ZAKS, BEATRICE WALDMAN
ZAKS, MENDEL ZAKS, GITTEL ZAKS LAYOSH,
ELIYAHU LAYOSH, SAMUEL MARKOWITZ,
DEBORAH ZAKS HILLAN, YOM T. HENIG,
STEVEN GREEN, DANIEL GREEN, ABRAHAM
ZAKS and STERLING NATIONAL BANK,

Defendants.

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SUPPLEMENTAL PRE-TRIAL
MEMORANDUM OF LAW OF RESPONDENTS
IN OPPOSITION TO MOTION OF CERTAIN DEFENDANTS
FOR AN ORDER (I) ENTERING MONETARY JUDGMENTS AGAINST
MAYER ZAKS, NACHUM BRODY, SHIMON ZAKS, YISROEL HOCHMAN,
FAIGY HOCHMAN AND SIMA ZAKS; (II) ASSESSING ACTUAL AND PUNITIVE
DAMAGES; AND (III) ORDERING THAT A WRIT OF BODY ATTACHMENT
WILL BE ENTERED FOR ANY FUTURE VIOLATIONS OF THE
COURT'S MAY 25, 2021 INJUNCTION

POINT IV

**NONE OF THE RESPONDENTS
WERE INVOLVED IN OR RESPONSIBLE
FOR ANY DISTURBANCES OR
INTERFERENCE IN THE BUILDING**

One of the overriding concerns of this Court has been disturbance and interference with the religious services in the Building. It must be emphasized that none of the Respondents have been responsible for or physically involved in any disturbances in the synagogue. In the Court's transcript of May 21, 2021, the Court expressed its concern on page 37, line 14 and then on page 9, line 13 about disturbances in the synagogue.

The same issue is expressed multiple times in the transcript of June 11, 2021 as follows:

p. 30, line 23

p. 31, lines 22-24

p. 35, lines 16-19

p. 36, lines 13-16

p. 40, lines 19-20

p. 48, line 10

p. 41, lines 7-10

Clearly, the mere entrance of Yisroel into the Building in order to attend classes in yeshiva, to attend services in the synagogue and to give Torah classes in the synagogue had nothing whatsoever to do with any disturbances in the synagogue or with the alleged interference with Rabbi Aryeh trying to assert himself as a spiritual leader of the synagogue.

More clearly, the mere attendance of both Sima and Faigy at the synagogue services on June 12, 2021 had nothing to do with any of the disturbances or alleged interferences in the synagogue. The attempt to penalize these two very righteous ladies for merely attending services in the synagogue is just a sign of the depraved depths of which Rabbi Aryeh will go to try to assert his influence on the congregation to be recognized as its spiritual leader.

The ability of Rabbi Aryeh to bend the truth (if not to break it) is demonstrated with his absolute insistence that Shimon entered the synagogue on June 12, 2021 to help his father Rabbi Mayer usurp Rabbi Aryeh's authority and disrupt the service. This is really difficult to understand because Shimon was not in the New York area that Shabbos as set forth in his Certification. He was clearly, unequivocally and unabashedly at his wife's family gathering in Lakewood, New Jersey for that Sabbath. Nevertheless, in his direct trial examination, Rabbi Aryeh continues to insist that Shimon disturbed the service on the Sabbath of June 12, 2021.

The incidence of the flower stands in the synagogue is a case in point. There are two temporary stands in the synagogue that are utilized on the holiday of Shavuous for placing big flower pots with flowers and greenery, since it is customary on that holiday to beautify the synagogue with flowers and greenery in honor of the receiving of the Torah, which replicates the glory on Mt. Sinai that occurred on the holiday of Shavuous.

These are temporary stands that are placed there only for that holiday and, as in every other synagogue in this world, those stands are removed and put away for future use. However, Rabbi Aryeh had the temporary flower stands bolted to the floor in an effort to block the seat where Rabbi Mayer normally sits. If the congregants were to see that the

flower pots had been bolted to the floor to block Rabbi Mayer's seats, there would have been a tremendous uproar against Rabbi Aryeh. Therefore, two of Rabbi Mayer's other sons removed those flower stands and unbolted them from the floor and stored them safely in the basement in order not to create an unhappy response from the congregants in the synagogue. So, in fact, it actually worked to Rabbi Aryeh's benefit because it avoided a confrontation between him and the rest of the congregation.

None of the pictures from the surveillance system show any of the Respondents engaging in any physical disturbance, any interference with the people who are praying at the congregation or any other attempt to interfere with the synagogue services in the building.

With respect to Nochum, the only pictures from the surveillance system concerning Nochum are those that were taken on or after June 25, 2021, the date of the Aryeh Declaration. Without prejudice to Respondents' argument that anything on or after June 25, 2021 is beyond the scope of the Motion, the pictures specifically show that Nochum attended the early morning prayer session in the downstairs minyan and was not in attendance at the main minyan where Rabbi Aryeh alleges the disturbances to have occurred.

Like it or not, there is no question that the congregants who attend services in the Building recognize and desire that Rabbi Mayer be their spiritual leader. As much as Rabbi Aryeh tries to foist himself on the congregation, as the adage goes, one "can lead a horse to water but cannot make him drink." The congregants simply do not want Rabbi Aryeh to be their spiritual leader. Ask them!!

Although Rabbi Mayer acknowledges having entered the synagogue on the evening of Friday, June 18, 2021 he did not cause any disturbance and did not convince anyone to leave the services. On the contrary, the actions of Rabbi Aryeh and his family in trying to take over the service while someone else had already been appointed by the sexton to lead the service, enraged the congregants to the point that that they voluntarily left and formed their own minyan for services in another room of the first floor of the Building.

None of the Respondents have interfered, harassed, intimidated or done anything whatsoever to cause any congregants to leave any service whatsoever. Unfortunately, it is most difficult for this Court and for Rabbi Aryeh to understand that the people who have praying on the Campus for up to and over 20 years simply do not recognize Rabbi Aryeh as their Rabbi and do not want him to be their spiritual leader. This Court cannot invest Rabbi Aryeh as their Rabbi against their will, simply because he claims to be the landlord through various business entities.

It has already been demonstrated that in Rabbi Aryeh's own words, CCI is not a congregation as proven by the application for tax exemption with the Town of Ramapo (Exhibit K) in which Rabbi Aryeh himself claims that the congregation is CRDI (not CCI). The proof is in the pudding: The Town of Ramapo has denied the tax exemption to the Campus because Rabbi Aryeh treats it as a real estate operation instead of a synagogue and yeshiva.

The bottom line is that none of the Respondents have been responsible for any of the physical disturbances or the interferences with the synagogue and the yeshiva. In fact, a close examination of every single screen shot or video that the Movants have offered as

evidence, do not show any of the Respondents involved in any behavior that even borders on disruption, interference or imposition on the religious services and religious education in the Building.

The refusal of some of the students to attend the yeshiva on the Campus has been solely as a reaction to Rabbi Aryeh's attempts to impose himself as the Rabbi and as the Rosh Yeshiva (headmaster) of the school. Basically, we have a case of an individual trying to impose his rulership without the consent of the governed.

None of the Respondent were personally involved in any disturbance or interference with the any of the services or the learning in the Building which was of such concern to this Court.

Dated: Flushing, New York
August 1, 2021

Respectfully submitted,

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By: 

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